

# HOUSE BILL 963

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By: **Delegate Dumais**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Appeal from Orphans’ Court and Jurisdiction of Circuit**  
3 **Court**

4 FOR the purpose of repealing certain provisions authorizing a party to appeal from a  
5 final judgment of an orphans’ court to the Court of Special Appeals; requiring  
6 an appeal to a circuit court from a final judgment of an orphans’ court to be  
7 heard on the record made in the orphans’ court rather than be heard de novo;  
8 providing that certain parties may elect to file certain cases in, or transfer  
9 certain cases to, a circuit court; making conforming changes; providing for the  
10 application of this Act; and generally relating to appeals from an orphans’ court  
11 and jurisdiction of a circuit court under certain circumstances.

12 BY repealing

13 Article – Courts and Judicial Proceedings  
14 Section 12–501  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2011 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Courts and Judicial Proceedings  
19 Section 12–502  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2011 Supplement)

22 BY adding to

23 Article – Estates and Trusts  
24 Section 11–112  
25 Annotated Code of Maryland  
26 (2011 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 [12–501.

5 (a) A party may appeal to the Court of Special Appeals from a final judgment  
6 of an orphans' court.

7 (b) However, if the final judgment was given or made in a summary  
8 proceeding, and on the testimony of witnesses, an appeal is not allowed under this  
9 section unless the party desiring to appeal immediately gives notice of the party's  
10 intention to appeal and requests that the testimony be reduced to writing.

11 (c) In such case the testimony shall be reduced to writing at the cost of the  
12 party requesting it.]

13 [12–502.] **12–501.**

14 (a) (1) (i) [Instead of a direct appeal to the Court of Special Appeals  
15 pursuant to § 12–501 of this subtitle, a] A party may appeal to the circuit court for the  
16 county from a final judgment of an orphans' court.

17 (ii) The appeal shall be heard [de novo] by the circuit court **ON**  
18 **THE RECORD MADE IN THE ORPHANS' COURT.**

19 [(iii) The de novo appeal shall be treated as if it were a new  
20 proceeding and as if there had never been a prior hearing or judgment by the orphans'  
21 court.

22 (iv) The circuit court shall give judgment according to the equity  
23 of the matter.]

24 (2) This subsection does not apply to Harford County or Montgomery  
25 County.

26 (b) (1) An appeal pursuant to this section shall be taken by filing an order  
27 for appeal with the register of wills within 30 days after the date of the final judgment  
28 from which the appeal is taken.

29 (2) Within 30 days thereafter the register of wills shall transmit [all  
30 pleadings and orders of the proceedings] **THE RECORD** to the court to which the  
31 appeal is taken, unless the orphans' court from which the appeal is taken extends the  
32 time for transmitting [these pleadings and orders] **THE RECORD.**

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**Article – Estates and Trusts**

**11-112.**

**(A) THIS SECTION DOES NOT APPLY TO A CASE FILED IN THE CIRCUIT COURT FOR HARFORD COUNTY OR THE CIRCUIT COURT FOR MONTGOMERY COUNTY IN WHICH THE CIRCUIT COURT EXERCISES THE JURISDICTION OF THE ORPHANS’ COURT IN THE COUNTY.**

**(B) INSTEAD OF FILING A CASE IN AN ORPHANS’ COURT, A PARTY MAY FILE THE CASE IN THE CIRCUIT COURT FOR THE COUNTY.**

**(C) WITHIN 30 DAYS OF THE DATE THAT A CASE IS FILED IN AN ORPHANS’ COURT, AN INTERESTED PARTY MAY ELECT IN WRITING TO TRANSFER THE CASE TO THE CIRCUIT COURT FOR THE COUNTY.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act.**

**SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.**